

REMARKS

Claims 1-4, 6, and 11 are pending.

Independent claims 1 and 11 have been amended. No new matter is added.

Applicant's priority document (GB 0017307.0) was submitted for the PCT, and thus is not required in the present application. Applicant relies on MPEP 201.14(b)(II), which states:

Where the benefit of a foreign filing date based on a foreign application is claimed in a later filed application (i.e., continuation, continuation-in-part, division) or in a reissue application and a certified copy of the foreign application as filed, has been filed in a parent or related application, *it is not necessary to file an additional certified copy in the later application.*

Emphasis added.

Applicant notes that the drawings need not be amended. First, the drawings need not be amended by virtue of the claim amendments removing the references to sealing jaw length. Second, the drawings need not be amended regarding the “extending transversely to the length” language. This is a reference to the cross-web technique (*See Applicant's specification*, page 1, lines 9-10; page 5, line 26). The transverse direction of the web is perpendicular to the plane of the drawing.

In response to the Examiner's definiteness concerns over the “path of movement,” it is moot with regard to Claim 1, but Applicant points out that the claims must be read in light of the entire disclosure, not in a vacuum. The specification refers to the second jaws 44 following the first jaws 40 along the path of movement of the partially formed bag. (*See Applicant's specification*, page 6, lines 2-5). Thus, the path of movement in the figure is from top to bottom.

The previous anticipation and obviousness rejections are moot by amendment, but as this is a final rejection, Applicant will address a few points regarding them briefly.

The Examiner's unsupported supposition that one jaw of Ausnit might contact the web (however slightly) before the other entirely misses the point of the Applicant's invention

as reflected in the claims. **Applicant's invention relates to first attaching the fasteners by their flanges and then subsequently attaching the fasteners by their body portions as well.** This first step is highlighted, for example, by the "to leave a body portion of the fastener free" and "to leave said body portion of said fastener free" limitations in respective Claims 1 and 11. These limitations are not taught by Ausnit, and yet all claim limitations must be disclosed, taught, or suggested. Thus, the rejections were improper.

Similarly, if the rejection rationale based on *In re Japikse* is repeated, Applicants respectfully request evidence of a permissible motivation to modify Ausnit. The *Japikse* case was not a method claim, **it turned upon the obviousness of moving the location of a starter switch on a hydraulic power press (it did not modify operation of the device).** In citing that case, the MPEP warns examiners that "the mere fact that a worker in the art *could* rearrange the parts ... is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation ...". MPEP 2144.04 (emphasis added). The Office Action presented no such motivation, and accordingly, the rejection was unsupported and improper.

Applicant respectfully requests entry of the amendments and reconsideration of the applicability of the prior art to the present claims. The Examiner is cordially invited to call the undersigned if he has any suggestions that will bring the case to allowance.

Date: October 30, 2006

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